

DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

Regulatory Branch

SUBJECT: Millennium Pipeline - Department of the Army Permit
Application Nos. 97-320-0003(2), 1999-00640, 199701186

REPLY TO

January 20, 2004

Regulatory Branch

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Mr. Richard Hall
Columbia Gas Transmission Corporation
293 Court Street
Binghamton, New York 13901

Dear Mr. Hall:

This pertains to your application for a Department of the Army (DA) permit for the Millennium Pipeline project, proposed to cross multiple waterways, located within the states of Pennsylvania and New York. The purpose of this letter is to address the recent decision by the U.S. Department of Commerce on the coastal zone consistency concurrence. This letter serves as a coordinated response from the Pittsburgh, Buffalo and New York Districts.

In accordance with regulations at 33 CFR 320.4(j)(1), a DA permit shall be denied where a Federal, state, or local agency has denied a required certification and/or authorization prior to final action on the DA permit. Our records indicate that the State of New York denied individual coastal zone consistency concurrence for Millennium's project on May 9, 2002, and the U.S. Secretary of Commerce upheld the State's decision on December 15, 2003. Therefore, your DA permit is hereby denied without prejudice.

The denial is without prejudice to your right to request reinstatement should you receive subsequent approval from the State. Before the Corps of Engineers can consider your project any further, you must obtain an individual coastal zone consistency concurrence from the following agency:

New York Department of State
Division of Coastal Resources and
Waterfront Revitalization
41 State Street
Albany, New York 12231-0001

If you successfully complete this process, you must then contact this office at the address listed below for guidance on proceeding with the DA permit application. If your project is modified during the coastal zone management review, you may need to furnish me with an updated application package, and a supplemental Public Notice may be required to evaluate the modification.

Please note that remaining issues that may require further evaluation include: concerns over the currently proposed Hudson River crossing at Haverstraw Bay, and the outstanding objections from the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS), particularly with regard to the impacts associated with the Haverstraw Bay crossing. If you reinstate your permit application, the Corps would resume processing your application and would attempt to resolve these issues at that time. Additional issues that would also be discussed include the finalization of the third-party compliance monitoring plan. Also note that a modification to the Water Quality Certification issued by the New York State Department of Environmental Conservation would be required.

In addition, if a considerable amount of time passes prior to the reinstatement of a permit application, the Corps may determine that a re-evaluation of aquatic resources to be impacted by the construction of the pipeline is necessary.

Please be advised that you must obtain proper Department of the Army authorization prior to proceeding with your project.

Questions pertaining to this matter should be directed to Ms. Margaret Crawford at (315) 255-8090, by writing to the following address: U.S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, or by e-mail at: margaret.a.crawford@usace.army.mil

Sincerely,

//S//

Jeffrey M. Hall
Lieutenant Colonel, Corps of Engineers
District Engineer

Enclosure

A copy of this letter has been furnished to the following:

U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
Federal Energy Regulatory Commission
U.S. Department of Commerce
National Marine Fisheries Service
National Park Service
U.S. Army Corps of Engineers, Cold Regions Research and
Engineering Laboratory
New York State Department of Environmental Conservation
New York State Department of State
New York State Office of Parks, Recreation and Historic
Preservation
New York State Department of Agriculture and Markets
New York State Public Service Commission
Office of New York State Attorney General Eliot Spitzer
Pennsylvania Department of Environmental Protection
Pennsylvania Department of Conservation and Natural Resources
Pennsylvania Fish and Boat Commission
New York City Department of Environmental Protection
Governor George E. Pataki
Senator Charles Schumer
Senator Hilary Rodham-Clinton
Representative Jack Quinn
Representative Amo Houghton
Representative Maurice D. Hinchey
Representative Sherwood L. Boehlert
Representative Philip English
Representative Eliot Engel
Representative Nita Lowey
Representative Sue Kelly
Westchester County Executive Andrew J. Spano

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CF:

(Note: all parties to receive copies of letter and CC list.
Those parties noted with an * are also to receive a copy of Press
Release and Fact Sheet.)

U.S. Environmental Protection Agency
Region 2
Attn: Jeanne Fox, Regional Administrator
290 Broadway
24th Floor
New York, New York 10007-1866

U.S. Fish and Wildlife Service
Attn: Mr. David Stilwell
3817 Luker Road
Cortland, New York 13045

Federal Energy Regulatory Commission
Attn: Ms. Richard Hoffman
888 First Street, N.E., Room 1A
Washington, D.C. 20426

U.S. Department of Commerce
Attn: Donald Evans, Secretary of Commerce
1401 Constitution Avenue, NW
Washington, D.C. 20230

National Marine Fisheries Service
Attn: Patricia Kurkul, Regional Administrator
One Blackburn Drive
Gloucester, Massachusetts 01930-2298

National Park Service
Attn: Mr. Don Hamilton
Upper Delaware Scenic and Recreational River
RR2 Box 2428
Beach Lake, PA 18405-9737

U.S. Army Corps of Engineers
ERDC-CRREL-NH
Attn: James Lever
72 Lyme Road
Hanover, New Hampshire 03755-1290

New York State Department of Environmental Conservation
Attn: Mr. Jeff Gregg

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Albany, New York 12233-1500

New York State Department of State
Division of Coastal Resources
Attn: George Stafford, Director
41 State Street
Albany, New York 12231-0001

New York State Office of Parks,
Recreation and Historic Preservation
Attn: Mr. Daniel Kane
The Governor Nelson A. Rockefeller Empire State Plaza
Agency Building 1
Albany, New York 12238

State of New York
Department of Agriculture and Markets
Attn: Mr. Matthew Brower
1 Winners Circle
Albany, New York 12235

New York State Public Service Commission
Attn: Nancy A. Russell, Assistant Counsel
3 Empire State Plaza
Albany, New York 12223-1350

*Office of New York State Attorney General Eliot Spitzer
Attn: Mr. Jim Pierney
The Capitol Building
Albany, New York 12224-0341

Pennsylvania Department of Environmental Protection
Soils and Waterways, Attn: Mr. Pat Williams
230 Chestnut Street
Meadville, Pennsylvania 16335

Pennsylvania Department of Conservation and Natural Resources
Attn: Mr. Michael DiBerardinis
P.O. Box 8767
Harrisburg, Pennsylvania 17105-8767

Pennsylvania Fish and Boat Commission
Attn: Mr. Ron Tibbott
450 Robinson Lane
Bellefonte, Pennsylvania 16823

New York City Department of Environmental Protection
Attn: Dr. William Stasiuk
Deputy Commissioner

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Bureau of Water Supply,
Quality and Protection
71 Smith Avenue
Kingston, New York 12401

*Governor George E. Pataki
State Capitol
Albany, New York 12224

*Senator Charles Schumer

*Senator Hilary Rodham-Clinton

*Representative Jack Quinn

*Representative Amo Houghton

*Representative Maurice D. Hinchley

*Representative Sherwood L. Boehlert

*Representative Philip English

*Representative Eliot Engel
6 Gramatan Avenue
Suite 205
Mt. Vernon, New York 10550
(914) 699-3646 fax

*Representative Nita Lowey
222 Mamaroneck Avenue
Suite 320
White Plains, New York 10605
(914) 328-1505 fax

*Representative Sue Kelly
21 Old Main Street, Room 107
Fishkill, New York 12524
(845) 897-5800 fax

*Westchester County Executive Andrew J. Spano
Michaelian Office Building
White Plains, New York 10601